

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Payment Limitations 1-PL (Revision 1)	Amendment 46
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Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 110 C has been added to clarify that certain business practices may adversely affect the determination of separate “person” for an individual or entity.

Subparagraph 151 C has been amended to clarify the use of current year advance program payments as the capital contribution in the determination of actively engaged in farming, effective for 2006.

Subparagraph 253 F has been added to clarify how the receipt of certain program payments may affect the “person” status previously determined for spouses.

Subparagraphs 253.5 E and F have been added to include examples of “person” determinations for spouses and the receipt of program payments of related interests.

Subparagraph 363 F has been added for reference.

Subparagraphs 364 B and C have been added for clarification.

Subparagraph 416 A has been amended to include State Offices in the exchange of information and concurrences of determinations for multiple State producers.

Subparagraph 653 D has been amended to include a note in the sample notification letter that the requirement of 3 years of tax records for AGI compliance determination applies to all members of producers that are entities and/or joint operations.

Subparagraph 671 B has been amended to reference Worksheet 10, Adjusted Gross Income (AGI) Compliance.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

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74 Status Date

A Application of Status Date

[7 CFR 1400.100 (a)] The status of an individual or entity on April 1 of the applicable crop, program, or fiscal year is the basis on which “person” determinations are made for the applicable crop, program, or fiscal year.

Actions taken by an individual or entity after April 1 of the applicable crop, program, or fiscal year shall:

- not increase the number of “persons” for the applicable crop, program, or fiscal year
- be used to determine whether there has been a decrease in the number of “persons” for the applicable program or fiscal year.

B Examples of Application of Status Date

Situation: As of April 1, 2 individuals are married and their status as husband and wife results in them being combined as 1 “person”. Later in the same year, the individuals divorce.

Application of Status Date: The 2 individuals shall be combined as 1 “person” for the applicable crop, program, or fiscal year even if they subsequently divorce during the year.

Situation: As of April 1, an individual was a minor and was combined as 1 “person” with his/her parents. Later in the same year, the individual reaches the age of majority.

Application of Status Date: The individual shall be combined 1 “person” with his/her parents for the applicable crop, program, or fiscal year even through the age of majority is reached during the year.

Situation: As of April 1, Individual A held a majority interest in Corporation X. Later in the same year, Individual A’s interest in Corporation X is reduced to 50 percent or less. Individual B acquires a majority interest in Corporation X.

Application of Status Date: Individual A shall be combined as 1 “person” with Corporation X for the applicable crop, program, or FY. Individual B shall also be combined as 1 “person” with Corporation X for the applicable crop, program, or fiscal year.

110 Defining “Person” (Continued)

*--C Business Practices and “Person” Status

Business practices and activities that may adversely affect the ability of an individual or entity to meet requirements to be considered a separate “person” include:

- common bank and loan accounts for multiple farming operations
- cross collateralization - the same assets, such as growing crops, program payments, crop and crop insurance proceeds, are pledged by multiple producers as security for a loan or multiple loans
- use of accounting ledgers rather than actual bank and supplier accounts
- farm operating loans are guaranteed or secured by assets of other farming operations, individuals, and entities.--*

111 Two or More Rules Apply

A Rule

If 2 or more rules appear to be applicable, apply the rule that is most restrictive on the number of “persons”.

112 Combined Individuals or Entities**A Rule**

When 2 or more individuals or entities are determined to be 1 “person” for payment limitation purposes:

- the determination applies to all programs subject to the provisions of this handbook
- the allowable payment may be distributed:
 - as agreed to by all parties

Note: The amount for each producer may not exceed the producer’s commensurate share.

- by COC, with DD concurrence, if the parties cannot agree.

Note: COC shall distribute payments fairly and equitably.

151 Specific Rules for Capital**A Introduction**

For capital to be a significant contribution to the farming operation, the capital contributed must meet the requirements of this paragraph.

B General Rule

The capital must be contributed directly to the farming operation from a fund or account separate and distinct from that of any other individual or entity with an interest in the farming operation.

Capital contributions to a farming operation **do not** include:

- the value of labor or management
- outlays for land or equipment.

C Source of Capital

The capital may be a direct out-of-pocket input of either of the following:

- a specified sum by the individual, entity, joint operation, members of a joint operation, or combined State producer
- an amount borrowed by the individual or entity.

***--Note:** Current year advance program payments, such as advance direct payments, are **not** considered a capital contribution for purposes of meeting the requirements of “actively engaged in farming.” The applicant is **not** eligible to receive such program payments until after the determination of “actively engaged in farming” is made by COC or reviewing authority.--*

151 Specific Rules for Capital (Continued)

D Borrowed Capital

Capital used as a significant contribution may be borrowed. The rules in this table apply to borrowed capital.

IF the farming operation is conducted by...	THEN borrowed capital must...
<p>any of the following:</p> <ul style="list-style-type: none"> • an individual • a joint operation, but the capital is contributed by a member of the joint operation rather than by the joint operation itself • an entity 	<ul style="list-style-type: none"> • be contributed directly to the farming operation by the applicable individual, entity, or member • not have been acquired as a result of a loan made to, guaranteed by, or secured by: <ul style="list-style-type: none"> • any other individual, joint operation, or entity that has an interest in the farming operation • the individual, joint operation, or entity by any other individual, joint operation, or entity that has an interest in the farming operation • any other individual, joint operation, or entity in whose farming operation this individual, joint operation, or entity has an interest.
<p>a joint operation in which the capital is contributed by the joint operation rather than by any members</p>	<ul style="list-style-type: none"> • be contributed directly to the farming operation by the joint operation • not have been acquired as a result of a loan made to, guaranteed by, or secured by: <ul style="list-style-type: none"> • any individual, entity, or joint operation that has an interest in the farming operation, except members of the joint operation to which the loan is made <p>Note: Refer to the example in subparagraph 296 C.--*</p> • the joint operation by any individual, entity, or other joint operation that has an interest in the farming operation • any individual, entity, or other joint operation in whose farming operation this joint operation has an interest.

253 Husband and Wife (Continued)

E “Actively Engaged in Farming” Rule

Use this table for “actively engaged in farming” determinations involving spouses.

IF the spouses are both of the following...	THEN...
<ul style="list-style-type: none"> • farming together in a joint operation • combined as 1 “person” for payment limitation purposes 	the requirements for both spouses to be considered “actively engaged in farming” may be met through the combined contributions of both spouses to the joint operation.
<ul style="list-style-type: none"> • farming together in a joint operation • considered separate “persons” for payment limitation purposes 	<p>the requirements for both spouses to be considered “actively engaged in farming” may not be met through the combined contributions of both spouses to the joint operation.</p> <p>Each spouse must provide qualifying contributions, including active personal labor or active personal management as applicable.</p>
<ul style="list-style-type: none"> • involved in separate farming operations • combined as 1 “person” for payment limitation purposes • involved in separate farming operations • considered separate “persons” for payment limitation purposes 	each spouse must meet all applicable requirements to be considered “actively engaged in farming”.

***--F Benefits From Other Programs**

The receipt of payments and benefits from programs that are not subject to a limitation per “person” will not adversely affect the application of the husband and wife rule, see subparagraph B.

See examples in subparagraphs 253.5 E and 253.5 F.--*

--253.5 Examples of Determinations for Husband and Wife--**A Example 1**

Situation: Husband A and Wife B have a joint farming operation comprised of 500 acres of owned land. In addition, Wife B has 25 percent interest in Corporation X, which is participating in CRP and earning annual payments.

- Husband A and Wife B jointly own all the equipment and provide all the capital.
- Husband A contributes at least 50 percent of Husband A's commensurate share of active personal labor and contributes a significant contribution of active personal management.
- In this situation, Husband A's and Wife B's share of the profits or losses from the farming operation are commensurate with their contributions and the contributions are at risk.

Determination: Husband A and Wife B are considered to be "actively engaged in farming." However, Husband A and Wife B are considered 1 "person" for payment limitation purposes *--because Wife B also receives payments indirectly through Corporation X, which is a separate "person" from Wife B.--*

--253.5 Examples of Determinations for Husband and Wife (Continued)--**D Example 4**

Situation: Husband M and Wife N have a joint farming operation comprised of 500 acres of owned land. In addition, Wife N is an heir of the estate of her father who died in the previous year.

- Husband M and Wife N jointly own all the equipment and provide all the capital on the joint farming operation.
- Husband M contributes at least 50 percent of the producer's commensurate share of active personal labor and contributes a significant contribution of active personal management for the joint operation.
- Wife N provides a significant contribution of active personal management for the joint operation.
- The estate of which Wife N is an heir owns land and meets the requirements to be considered "actively engaged in farming" under the landowner provision.
- In this situation, Husband M's and Wife N's share of the profits or losses from the farming operation are commensurate with their contributions to the farming operation and the contributions to the farming operation and the contributions are at risk.

Determination: Husband M, Wife N, and the estate are considered to be "actively engaged in farming" and separate "persons" for payment limitation purposes.

253.5 Examples of Determinations for Husband and Wife (Continued)***--E Example 5**

Situation: Husband J and Wife L have a joint farming operation comprised of 1200 acres of owned land. Additionally, Wife L holds a substantial beneficial interest in Big Horns Cattle Co. Inc., a custom feedyard.

- Husband J and Wife L jointly own all equipment and provide all inputs on their joint farming operation.
- Husband J and Wife L are determined actively engaged in farming and separate “persons” for program payment eligibility and limitation purposes.
- Husband J and Wife L through their joint operation each receive DCP and CRP benefits.
- Big Horns Cattle Co. Inc. requests and receives benefits under EQIP for the construction of a livestock waste management facility.

Determination: EQIP benefits are not subject to “person” rules as the payments are limited by attribution to individuals and entities. Therefore, the receipt of EQIP benefits by the entity in which Wife L holds an interest will not adversely affect the separate “person” status currently held by Husband J and Wife L.

253.5 Examples of Determinations for Husband and Wife (Continued)***--F Example 5**

Situation: Husband C and Wife K have a joint farming operation comprised of 500 acres of owned and cash rented land. Husband C holds substantial but less than majority interest in Northern Berries, Inc., a blueberry, strawberry and blackberry grower.

- Husband C and Wife K jointly own all equipment and provide all inputs on their joint farming operation.
- Husband C and Wife K are determined actively engaged in farming and separate “persons” for program payment eligibility and limitation purposes.
- Husband C and Wife K through their joint operation each receive DCP and CRP benefits.
- Northern Berries, Inc., requests and receives TAA on blueberries for the same year that DCP and CRP benefits are received by Husband C and Wife K.

Determination: TAA benefits are subject to the “person” rules and the \$10,000 limit for TAA is also part of the \$65,000 limit applicable to the counter-cyclical payments under DCP. The receipt of TAA benefits by the entity Northern Berries, Inc., would adversely affect the separate “person” status previously determined for Husband C and Wife K. As outlined in subparagraph 253 B, 1 spouse (Husband C) holds substantial beneficial interest in an entity (Northern Berries) receiving payment as a separate “person.” Husband C and Wife K cannot meet requirements to be considered separate “persons” under the husband and wife provision.

254 Minor Child**A Definition of Minor Child**

[7 CFR 1400.106 (c)] A minor child is an individual that is not 18 years of age on or before the status date of the current year.

Note: Court action conferring majority on such person does not change this person's status as a minor child.

B Rules for Minor Child

[7 CFR 1400.106 (a)] A minor child:

- is combined as 1 "person" with each parent or court-appointed person who is responsible for the child
- that is a beneficiary of a trust or heir of an estate, is combined with each parent or court-appointed person who is responsible for the child.

Exception: If the parents are considered to be separate "persons" according to paragraph 253, the minor child shall be combined as 1 "person" with the parent receiving the larger amount in payments.

Notes: A conservatorship does not necessarily mean the appointee is responsible for the child. A conservatorship means the appointee has control of certain assets of the child's.

See subparagraph 253 D for minors with divorced parents.

C Exception to Rule

[7 CFR 1400.106 (c)] A minor may be considered a separate "person" from a parent or court-appointed person if both of the following requirements are met:

- the minor is a producer on a farm
- neither the minor's parents nor court-appointed person has any interest in the minor's farm or production from that farm.

363 “Person” Determinations - Trusts**A General Rule**

--[7 CFR 1400.103] For payment limitation purposes, a trust is eligible to be considered a-- separate “person” from any other individual or entity, if the trust:

- has a separate and distinct interest in the land or crop involved
- exercises separate responsibility for this interest
- maintains funds or accounts separate from that of any other individual or entity for this interest.

B Revocable Trust Combined With Grantor

Revocable trusts are combined with the grantor of the trust.

Note: See subparagraph D to determine whether the beneficiary should also be combined with the grantor and the revocable trust.

C Trusts With Minor Beneficiaries

For trusts with 1 or more minor children as beneficiaries and the minor does not qualify as a separate “person” according to paragraph 254, the minor child’s interest is considered to be the parent’s or court-appointed person’s interest.

Note: If the minor child is the sole beneficiary or if all the minor children are under the same parent or court-appointed person’s care, the trust, the minor, and the parent or court-appointed person are combined as 1 “person.”

363 “Person” Determinations - Trusts (Continued)

D Guidelines for Determining “Person”

Use this table to determine whether a trust is a separate “person” from the beneficiary or beneficiaries.

IF the trust has...	THEN the trust...
only 1 beneficiary	is combined as 1 “person” with the beneficiary.
<ul style="list-style-type: none"> • 2 or more beneficiaries that are not combined as 1 “person” • farming interests separate and distinct from all individuals or entities including the beneficiaries 	is a separate “person” from the beneficiaries. Note: See subparagraph C if all beneficiaries are minors.
1 or more beneficiaries and these beneficiaries have more than 50 percent interest in this trust and 1 or more other trusts Note: Include interests of beneficiaries combined as 1 “person.”	is combined with all other trusts that have these common beneficiaries holding more than 50 percent interest. Note: Combine only similar trusts, that is, irrevocable trust with another irrevocable trust.

E Programs Not Requiring Determination of “Actively Engaged”

If a program requires a determination of “persons” but not a determination of “actively engaged in farming,” the following is also required to be eligible for payments or benefits:

- the claimed share of the profits or losses of the farming operation must be commensurate with the contributions to the farming operation
- contributions at risk.

***--F Legal Equivalent of Trusts**

An IRA may be considered an eligible program participant and payment recipient only if the Regional Attorney determines the account:

- has the function of a trust, and
- is considered the legal equivalent of a trust.

Note: Consultation and approval by the Regional Attorney is required before any determinations of eligibility.--*

364 “Actively Engaged” Determinations - Trusts**A Rule**

[7 CFR 1400.205] An irrevocable or revocable trust shall be considered to be “actively engaged in farming” if all of the requirements in this table are met.

Item	Requirement
1	The trust separately makes a significant contribution of capital, equipment, or land, or a combination thereof.
2	Income beneficiaries that make contributions of active personal labor or active personal management, have a combined interest of at least 50 percent, and collectively make a significant contribution to the farming operation.
3	The trust’s share of the profits or losses from the farming operation is commensurate with the contribution to the farming operation.
4	The trust’s contributions are at risk.
5	The trust has provided a tax ID number of the trust unless the trust is a revocable trust and the grantor is the sole income beneficiary or all grantors and beneficiaries of the revocable trust are combined as 1 “person”. * * *
6	The trust has provided a copy of the trust agreement to COC, unless the trust is a revocable trust.

***--B Tax Identification Numbers**

A single tax identification number, such as a Social Security number, may not be used to pay both an individual and a trust in the same year.

C Actions of a Trustee

The personal actions of a trustee, either labor or management, cannot be considered as contributions of the trust in meeting the requirement of actively engaged in farming.

Only the income beneficiaries of a trust can provide the required, at-risk contributions of active personal labor or active personal management, or combination thereof, for the trust to be considered actively engaged in farming.--*

--365 Case Examples - Trusts--**A Irrevocable Trust Example 1**

Situation: EF Trust meets the requirements to be considered an irrevocable trust for payment limitation purposes. The trust, with Individuals E and F each having an interest of 50 percent, contributes a significant amount of capital to the farming operation. Each beneficiary contributes a significant amount of active personal management. All labor is hired. The land and equipment are leased. The trust's share of the profits or losses from the farming operation are commensurate with the trust's contributions to the operation and the contributions are at risk. Individual E also has another farming interest as an individual.

Determination: EF Trust is considered to be "actively engaged in farming" since the trust provides capital, and the beneficiaries contribute a significant amount of active personal management. The trust is considered to be 1 "person" for payment limitation purposes. Individual E may also be considered a separate "person" with respect to Individual E's individual farming operation.

B Irrevocable Trust Example 2

Situation: Individual G is a 100 percent income beneficiary of G Trust which meets the requirements to be considered an irrevocable trust for payment limitation purposes. G Trust contributes a significant amount of both equipment and capital to the farming operation. Individual G contributes at least 50 percent of the operation's active personal labor. G Trust leases all land and hires all management and 50 percent of the labor. Individual G also has farming interests as an individual.

Determination: G Trust is considered to be "actively engaged in farming." Individual G and G Trust are considered to be 1 "person" for payment limitation purposes because Individual G is the sole income beneficiary of the trust.

416 Producers With Multiple State Interests

A COC Determinations for Multiple State Producers

Procedure applicable to multicounty producers shall also be followed for multiple State
*--producers. Counties should communicate directly and provide copies of such notifications
and determinations to the State Offices for concurrence.--*

417-421 (Withdrawn--Amend. 25)

422, 423 (Reserved)

653 Producer Notification (Continued)

D Sample Notification Letter

This is an example of a letter notifying a producer of being selected for an **end-of-year review**.

*--

[Letterhead]

*Any County FSA Office
502 Spotcheck Ave.
Some City, US 55555*

Date

*Wandering Brook, Inc.
Fred Friendly, President
777 Lucky Day Road
Some City, State 55555*

Dear Mr. Friendly:

Your farming operation has been selected for a 200X payment limitation and payment eligibility end-of-year review.

End of year reviews are conducted annually on a number of farming operations and producers that are participants in various FSA administered programs. Initial payment eligibility and payment limitation determinations are made based on the producer's certification of how the farming operation will be conducted for the year. Producers certified that their average adjusted Gross Income (AGI) for the applicable year was either below \$2.5 million or that at least 75 percent of the average AGI was derived from farming, ranching or forestry operations.

To ensure overall program integrity, it is necessary that the producer's farming operation be reviewed and documented. The producer's adjusted gross income for the three previous years must also be reviewed and verified. Accordingly, your farming operation will be reviewed to determine whether the operation was conducted in 200X as represented on CCC-502, Farm Operating Plan for Payment Eligibility Review, on which the initial payment eligibility and payment limitation determinations based. In addition, your adjusted gross income will be reviewed for the previous three years to determine whether your average AGI was less than \$2.5 million, or at least 75 percent of your average AGI was derived from farming, ranching or forestry, as certified on CCC-526, or other statements prepared by an attorney or certified public accountant.

[Delete the following paragraphs that are not applicable to the producer.]

To verify capital contributions, documents and information are required as follows:

- operating loan documents
- income and expense ledgers
- canceled checks for expenditures, such as:
 - fertilizer
 - seed
 - fuel
 - equipment leases and purchases
 - land leases and purchases
 - hired labor and management
 - any other farming operation expenditures.

--*

--653 Producer Notification (Continued)*D Sample Notification Letter (Continued)**

To verify land contributions, documents and information are required as follows:

- lease agreements
- sales contracts
- property tax statements
- canceled checks associated with land.

To verify equipment contributions, documents and information are required as follows:

- equipment listings
- lease agreements
- purchase contracts
- canceled checks associated with equipment.

To verify labor contributions, documents and information are required as follows:

- documentation of who provided actual labor contributions and type of labor
- employee time sheets or books, if applicable
- canceled checks for hired labor, if applicable.

To verify management contributions, documents and information are required as follows:

- documentation of who provided actual management contributions and specific duties
- canceled checks for hired management
- documents showing signature of individual involved in management, such as:
 - canceled checks for significant purchases
 - loan documents
 - lease and purchase agreements
 - sales documents.

Other documents and information necessary to make a complete review includes, but is not limited to, the following:

- crop sales documents
- warehouse ledgers
- gin ledgers
- corporation papers, including documentation of share ownership

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653 Producer Notification (Continued)

D Sample Notification Letter (Continued)

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- partnership agreements or articles of partnership
- trust agreements
- legal documents and contracts
- accounting records
- court records
- crop insurance documents
- complete copies of Federal income tax returns filed with IRS for the years specified 200X, 200X, 200X.

Note: Applies for all members of producers that are entities and/or joint operations.

Please provide the requested information to this office within 30 calendar days of the date of this letter. We will photocopy and return the documents and written information you submit. Copies of the documents and information will be forwarded to the individual(s) who will be conducting the actual review and documenting their findings. The (*Any County FSA Committee or State FSA Office, as applicable*) will then make determinations based on findings-of-fact supported by the documents and information you provide. Therefore, it is important that you provide complete and accurate documentation.

You may also be contacted for an interview to obtain additional information and clarification concerning contributions to the farming operation and transactions about the farming operation. During the interview, you may be requested to provide access to additional records.

Upon completion of the review, you will be notified of the results of the review and any further action required.

If, within 30 calendar days of the date of this letter, you have **not** provided adequate documentation for the reviewing authority to make its findings and determinations, you will be:

- determined ineligible for the 200X crop, program or fiscal year benefits
- notified of the revised determination, and given appeal rights
- required to refund payments earned as a result of the previous payment eligibility and payment limitation determination.

Thank you for your cooperation. If you have any questions, please contact this office.

Sincerely,

James E. Cricket
County Executive Director

--*

654-660 (Reserved)

Section 3 Conducting Reviews

671 Overview**A Introduction**

This section provides the required action and worksheets to be used to conduct end-of-year reviews.

B In This Section

The following paragraphs are included in this section.

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673-676	Reserved	
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678	End-of-Year Review Checklist	7-73
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689-697	Reserved	
698	Worksheet 20, Summary of Findings	7-161
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Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ACA	Agricultural Credit Association	257
AGI	adjusted gross income	Text
AMA	Agriculture Management Assistance	16, 22
CEM	combined producer	608, 625
DAFP	Deputy Administrator, Farm Programs	93
DCP	Direct and Counter-Cyclical Program	3, 16, 18
EQIP	Environmental Quality Incentive Program	16, 22
FCB	Farm Credit Bank	257, 313
FLBA	Federal Land Bank Association	257
FLM	Farm Loan Manager	52.5
IFM	integrated farm maintenance	158
IRA	individual retirement account	363
PCA	Production Credit Association	257
POA	power of attorney	630
RCC	resource conserving crops	158
TAA	Trade Adjustment Assistance	16, 22, Ex. 6

Redelegations of Authority

This table lists redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	549
Making determinations' decisions	396, 530
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